IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

WP(C).No. 30054 of 2007(C)

PETITIONER:

M/S BET MEDICAL(P)LTD.,
1ST FLOOR, ROUND TABLE HOUSE,
69, NUNGAMBAKKAM HIGH ROAD,
CHENNAI-600034. REPRESENTED BY ITS
DIRECTOR, P.IMMANUAL.

BY ADV. SRI.K.J.ABRAHAM

RESPONDENTS:

THE INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES,
KOLLAM AT KOTTARAKARA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 30054 OF 2007 C
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Dated this the 11th day of October, 2007

J U D G M E N T

The prayer in this writ petition is to quash Ext.P6 directing the petitioner to furnish security for the release of the consignment under transport in vehicle No.KL7E 2286. From Ext.P6, it is seen that a machinery was under transport to a consignee at Parassala. The goods have been detained by the respondent and the defects have been noticed in Ext.P6. According to the respondent, there is a willful attempt for evasion of tax. It is stated that the agreement involves supply,erection, installation and sales within the state and that the consignor was not a registered dealer. It is also stated that the consignor had guaranteed for three years comprehensive warranty and that the ownership of the goods will be transferred to the consignee, only after successful erection and installation of the machine in the consignee's Hospital.

2. However, the defects that are noted are contested by the petitioner by making reference to Exhibits P2, P3 and P4. According to the petitioner, it is a registered dealer under the CST Act in Tamilnadu State and that by Ext.P2, they are to supply the machine to the consignee. It is also pointed out that they have paid import duty as per Ext.P3. They are disputing the very liability of tax and according to them, detention is unwarranted.

3. In my view these are issues that cannot be sorted out in this petition and are matters for enquiry to be conducted in terms of Section 47 of the Act. At the moment, the only point that needs to be considered is whether the goods are liable to be released to the petitioner. Having regard to the facts of this case and considering the nature of the machine, I am satisfied that subject to conditions protecting the interest of the respondent, the goods can be released to the petitioner.

4. Accordingly, I direct that if the petitioner furnishes a bank guarantee for the amount mentioned in Ext.P6, the goods and truck will be released to the petitioner forth with. Thereafter

enquiry will be held in accordance with law.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp